IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 219 OF 2004

Kisan Baburao Wangade & Others..... Petitioners.

Versus

The State of Maharashtra & Ors.. .... Respondents.

Mr. S. R. Borulkar for the Petitioners.

Mr. C.R.Sonawane, AGP for Respondent Nos.1 & 2.

Mr. Vijay Patil for Respondent No.3.

CORAM : S. RADHAKRISHNAN &

S. A. BOBDE, JJ.

DATED : 14TH DECEMBER, 2004.

P.C.:

Heard learned Counsel for the Petitioners and the learned Asstt.Government Pleader for Respondent Nos.1 and 2 and the learned Counsel for Respondent No.3.

2. Rule. Rule made returnable forthwith. By consent, taken up for hearing.

3. By this petition, the Petitioners are seeking relief of subsistence allowance with regard to the land which has already been acquired and the Petitioners claim to be the project affected persons.

4. Learned Asstt. Government Pleader brought to our notice the provisions of Section 16(4) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999. Section 16(4) reads as under:-

> "The State Government shall pay a special grant to all such affected persons who have deposited an amount as per Clause (b) of sub-section (2)A of this section but have not been allotted land in the benefited zone and the rate of the special grant shall be rupees four hundred per mensem for the period from the date of actual displacement of the person from the land to the date of allotment of land in the benefited zone."

5. Learned Counsel for Respondent No.3 categorically states that the Petitioners have still not been displaced from the land and they are still cultivating on the said land. Learned Counsel for the Petitioners submits that the Petitioners have already been displaced from the land and they are not cultivating on the said land. Under these circumstances, we are of the view that this issue can be resolved only by the State Government by actually verifying the record and after affording an opportunity of personal hearing to the Petitioners. Under the aforesaid facts and

circumstances of the case, the learned Counsel for the Petitioners submits that the Petitioners will make an appropriate application under Section 16(4) of the aforesaid Act to the State Government for grant of the said subsistence allowance of Rs.400/- per mensem. If the application is made by the Petitioners within a period of two weeks from today, the State Government shall decide the same as expeditiously as possible after affording an opportunity of personal hearing to the Petitioners preferably within a period of 12 weeks thereafter by a reasoned and speaking order. It is also made clear that while the State Government decides the same, the same shall be decided independently on its own merit and in accordance with law and not having regard to the report submitted to this Court.

6. In the event, if the Petitioners are aggrieved by the order that may be passed by the State Government, they are at liberty to file appropriate proceedings in that behalf.

7. Rule made absolute in the above terms. Writ Petition stands disposed of. There shall be no order as to costs.

Sd/-

(S. RADHAKRISHNAN,J.)

Sd/-

(**S. A. BOBDE, J.**)